

Hydraulic Project Approval reform



The Washington Department of Fish and Wildlife (WDFW) is required by the state's hydraulic code (RCW 77.55) to review applications and issue permits for proposed construction work in or near water. The department's Hydraulic Project Approval (HPA) program is the state's primary tool for protecting fish life.

Problem: WDFW receives approximately 4,000 HPA applications each year that require design of individual project permit conditions to protect fish life and habitat. Current staffing levels are not adequate to review each application and issue individual permits with specific conditions, regardless of the type of project. In addition, WDFW's current enforcement authority for HPAs is not adequate to protect fish life and does not align with other natural resource agencies' civil enforcement tools. Jurisdictional authority for HPAs is unclear to many applicants, creating uncertainty around whether permits are needed for their projects. In addition, the HPA program costs \$5.5 million annually to administer, and is funded through the state's General Fund. Unlike most construction permitting programs, HPA permits are issued without charge to applicants.

Proposed solution: To increase efficiencies in administering HPAs, WDFW is seeking the authority to focus individual permitting activities on projects with the highest risk to fish life. At the same time, WDFW is pursuing enhanced civil authority to enforce the state hydraulic code. To improve the effectiveness of the HPA program, WDFW is also attempting to clarify the extent of HPA jurisdiction.

WDFW is seeking to reduce its reliance on state General Funds by adopting fees for activities that benefit specific users. As part of this effort, WDFW is working with stakeholders to develop an HPA fee proposal that would recover about half the cost of administering the program.

Benefits: Healthy habitat is essential to sustaining the state's fish and shellfish resources. These natural resources are vital to the state's economy and quality of life, providing recreational and commercial fisheries that generate over \$5 billion annually for the Washington economy. Local communities, small businesses, tribes and others who fish for their livelihoods or leisure all benefit from healthy habitat.

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Hydraulic Project Approval permit — Proposal detail:

The bill includes provisions to strengthen the HPA permit as a tool to protect fish life.

- **Create hydraulic project classifications:** This provision would place projects into one of three categories based on level of potential risk of impact to fish life. This provision would improve program efficiency, and would allow more emphasis on compliance monitoring. Efficiencies in administering hydraulic project approvals would also be gained by exempting certain forest practices from the requirement to obtain an HPA, provided they are conducted under an approved forest practices permit that incorporates rules adopted by the Department of Natural Resources with WDFW's approval.
- **Enhance civil enforcement authority:** This provision would enhance WDFW's current civil enforcement authority to include the ability to issue a notice to comply or stop work order when an applicant violates an HPA permit condition or fails to comply with statutory or rule requirements. This provision would also allow WDFW to levy civil penalties of up to \$10,000 for violations, based on factors established in a penalty schedule.
- **Clarify the extent of HPA jurisdiction:** This provision would modify the definition of "hydraulic project" to those projects involving work at or below the ordinary high-water line, and the following types of projects: dikes, levees, bridges, storm water outfall structures, and bank protection that directly affects waters of the state. This clarification would reduce or eliminate uncertainties associated with project types that require an HPA permit, and would provide more certainty for applicants.
- **Create HPA fees:** This provision would allow WDFW to collect approximately \$2.5 million per year from new fees for HPAs through development of a fee structure for all hydraulic project types. Fee revenues would be deposited into a dedicated HPA account. Funds collected in the HPA account would be used solely for operation and improvement of the HPA program.